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BEFORE THE DEPARTMENT OF BUSINESS OVERSIGHT  
OF THE STATE OF CALIFORNIA

In the Matter of THE COMMISSIONER OF BUSINESS OVERSIGHT,	)	CRD ID: 4138916
	)	
Complainant,	)	
v.	)	STATEMENT OF ISSUES TO BAR
	)	HANSUELI OVERTURF a.k.a. HANS
HANSUELI, OVERTURF a.k.a. HANS	)	OVERTURF, FROM ANY POSITION OF
OVERTURF,	)	EMPLOYMENT, MANAGEMENT OR
	)	CONTROL OF ANY BROKER-DEALER OR
Respondent.	)	INVESTMENT ADVISER
	)	(CORPORATIONS CODE SECTION 25213)
	)	
	)	

1 Jan Lynn Owen, the Commissioner of Business Oversight (“Commissioner” or  
2 “Complainant”), alleges and charges as follows:

3 **I**

4 **Jurisdiction and Venue**

5 1. The Commissioner brings this bar action under the provisions of Corporations Code  
6 section 25213, and the rules and regulations promulgated thereunder.

7 2. The Commissioner, as head of the Department of Business Oversight (Department”),  
8 is authorized to administer and enforce the provisions of the Corporate Securities Law of 1968 (Corp.  
9 Code, § 25000 et seq.) and the regulations promulgated under title 10 of the California Code of  
10 Regulations (Cal. Code Regs., tit.10, § 260.000 et seq.).

11 **II**

12 **Statement of Facts**

13 3. Hansueli Overturf, a.k.a. Hans Overturf (“Overturf”) (CRD no. 4138916) is a  
14 California resident, and proprietor and president of Overturf Financial Services, Inc., a California  
15 corporation. Overturf was also a registered representative employed by various investment related  
16 firms, including Raymond James Financial Services, Inc. (“Raymond James”), a licensed broker-  
17 dealer.

18 4. Overturf Financial Services, Inc. (“Overturf Financial”) is a California corporation  
19 incorporated in February of 2004 with an address listed at 1110 Mar West St., Suite E, Tiburon,  
20 California 94920. Overturf Financial is an investment related company.

21 5. In October 2004, Overturf was criminally charged with twelve felony counts including  
22 selling unregistered securities, fraud in connection with the offer or sale of securities and other  
23 unlawful acts (People of the State of California v. Hans Overturf, et al., Case No. CRF04-9186-4).  
24 Overturf settled the matter for approximately \$420,000, and the charges were dismissed in December  
25 2006.

26 6. On or about August 11, 2011, the Commissioner issued a Desist and Refrain Order  
27 against Overturf for violations of Corporations Code section 25401 (“2011 Order”). Overturf offered  
28

1 and sold securities by means of written and oral communications which included untrue statements of  
2 material fact and which omitted to state material facts necessary in order to make the statements  
3 made, in light of the circumstances under which they were made, not misleading, in violation of  
4 section 25401 of the Corporations Code.

5 7. On or about August 19, 2011, the Commissioner issued the notice of intention to bar  
6 Overturf from any position of employment, management or control of any broker-dealer or  
7 investment adviser under Corporations Code section 25213. The notice of intention concerned the  
8 offers and sales of securities made by Overturf to his Raymond James clients, without the approval of  
9 Raymond James, while he was employed at the firm. Among the misrepresentations Overturf made in  
10 connection with those sales was the fact that Overturf had told investors that the investment product  
11 was offered by Raymond James when it was not.

12 8. On November 15, 2011, the Commissioner and Overturf entered into a stipulation  
13 whereby Overturf agreed to a three-year suspension, beginning on the date that the stipulation was  
14 executed by both parties, from any position of employment, management or control of any  
15 investment adviser, broker-dealer or commodity adviser ("Stipulation"). The Stipulation prohibited  
16 Overturf from engaging in any activities related to any position of employment, management or  
17 control of any investment adviser, broker-dealer or commodity adviser. In addition, under the  
18 Stipulation, the 2011 Order became a final order. Overturf understood and agreed that the 2011 Order  
19 remained in effect and was public, and that he would not make any statement or representation that  
20 was inconsistent with the Stipulation. Overturf's suspension expired on November 15, 2014.

21 9. On December 13, 2011, Overturf signed an Offer of Settlement with the Financial  
22 Industry Regulatory Authority, Inc. (FINRA), and effective December 19, 2011. Overturf was  
23 suspended by FINRA in all capacities for one year and fined \$10,000.00 for engaging in undisclosed  
24 business activities while he was employed at Raymond James as a sales representative ("FINRA  
25 Settlement"). FINRA is a non-governmental organization authorized by Congress to regulate all  
26 securities firms doing business in the United States.

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1           10.     Since at least August of 2014 through early 2015, while Overturf was prohibited from  
2 engaging in any activities related to any position of employment, management or control of any  
3 investment adviser, broker-dealer or commodity adviser, Overturf acted as an authorized agent of a  
4 California resident for the client's Roth IRA account at Fidelity Brokerage Services, LLC.  
5 ("Fidelity"). As an authorized agent, Overturf traded on the client's account.

6           11.     Sometime in November of 2014, a California resident granted Overturf access to  
7 accounts the client held at Fidelity: a trust account, a ROTH IRA, and a regular IRA account.  
8 Overturf traded on the accounts and received a fee of \$5,465.00.

9           12.     Overturf, as an authorized agent for the above described clients, misrepresented or  
10 failed to disclose the following material facts:

11               a.     the Stipulation that prohibited Overturf from engaging in any activities related  
12 to any position of employment, management or control of any investment adviser, broker-dealer or  
13 commodity adviser for three years, beginning November 15, 2011 through November 15, 2014;

14               b.     the 2011 Order remained in effect and prohibited Overturf from violating the  
15 anti-fraud provision of the Corporate Securities Law of 1968; and

16               c.     the FINRA Settlement wherein FINRA suspended Overturf in all capacities for  
17 one year and fined him \$10,000.00 for engaging in undisclosed business activities while he was  
18 employed at Raymond James as a sales representative.

19           13.     Overturf and Overturf Financial Services, Inc. conducted business as broker-dealers  
20 by engaging in the business of effecting transactions in securities in this state for the account of  
21 others. Under Corporations Code section 25210, Overturf and Overturf Financial Services, Inc. were  
22 required to obtain a certificate from the Commissioner to conduct business as broker-dealers in the  
23 State of California.

24           14.     The Commissioner has no record of having received an application from, or having  
25 granted a broker-dealer certificate to Overturf or Overturf Financial Services, Inc.

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**III**  
**Overturf Should be Barred from Any Position of**  
**Employment, Management or Control of Any Broker-Dealer**

15. Corporations Code section 25213 provides:

The commissioner may, after appropriate notice and opportunity for hearing, by order censure, or suspend for a period not exceeding 12 months, or deny or bar from any position of employment, management or control of any broker-dealer or investment adviser, any officer, director, partner, agent, employee of, or person performing similar functions for, a broker-dealer, or any other person, if the commissioner finds that the censure, suspension, denial, or bar is in the public interest and that the person has committed any act or omission enumerated in subdivision (a), (e), (f), or (g) of Section 25212 or has been convicted of, or pled nolo contendere to, any offense or been held liable in any civil action specified in subdivision (b) of Section 25212, or is enjoined from any act, conduct or practice specified in subdivision (c) of Section 25212 or is subject to any order specified in subdivision (d) of Section 25212.

16. Corporations Code section 25212, in relevant part, provides:

(d) Is or has been subject to . . . (2) any order of any national securities association or national securities exchange (registered under the Securities Exchange Act of 1934) suspending or expelling that person from membership in the association or exchange or from association with any member thereof, or (3) any other order of the commission or any administrator, association, or exchange referred to in this subdivision which is or has been necessary for the protection of any investor.

17. As discussed in paragraph 6. above, Overturf offered and sold securities by means of written and oral communications, which included untrue statements of material fact and which omitted to state material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading, in violation of section 25401 of the Corporations Code. Accordingly, on or about August 2011, the 2011 Order was issued.

18. As discussed in paragraph 7. above, Overturf offered and sold securities to his Raymond James clients, without the approval of Raymond James, while he was employed at the firm. In connection with those sales, Overturf told investors that the investment product was offered by Raymond James when it was not. Subsequently, the Commissioner issued the notice of intention to

1 bar Overturf from any position of employment, management or control of any broker-dealer or  
2 investment adviser under section 25213 of the Corporations Code.

3 19. As discussed in paragraph 8. above, Overturf entered into a stipulation that prohibited  
4 him from engaging in any activities related to any position of employment, management or control of  
5 any investment adviser, broker-dealer or commodity adviser from November 15, 2011 through  
6 November 15, 2014. Overturf also stipulated that the 2011 Order would become a final order, that it  
7 remained in effect and was public, and that he would not make any statement or representation that  
8 was inconsistent with the stipulation.

9 20. On December 13, 2011, Overturf signed an Offer of Settlement with FINRA and  
10 effective December 19, 2011. FINRA suspended Overturf in all capacities for one year and assessed  
11 him a fine of \$10,000.00 for engaging in undisclosed business activities while he was employed at  
12 Raymond James as a sales representative. Records show that Overturf has not paid the fine.

13 21. Since at least August of 2014 through early 2015, while Overturf was prohibited from  
14 engaging in any activities related to any position of employment, management or control of any  
15 investment adviser, broker-dealer or commodity adviser, Overturf acted as an authorized agent of a  
16 California resident for the client's Roth IRA account at Fidelity Brokerage Services, LLC.  
17 ("Fidelity"). As an authorized agent, Overturf traded on the client's account.

18 22. Sometime in November of 2014, a California resident granted Overturf access to  
19 accounts the client held at Fidelity: a trust account, a ROTH IRA, and a regular IRA account.  
20 Overturf traded on the accounts and received a fee of \$5,465.00.

21 23. Overturf, as an authorized agent for the above described clients, misrepresented or  
22 failed to disclose the following material facts:

23 a. the Stipulation that prohibited Overturf from engaging in any activities related  
24 to any position of employment, management or control of any investment adviser, broker-dealer or  
25 commodity adviser for three years, beginning November 15, 2011 through November 15, 2014;

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b. the 2011 Order remained in effect and prohibited Overturf from violating the anti-fraud provision of the Corporate Securities Law of 1968; and

c. the FINRA Settlement wherein FINRA suspended Overturf in all capacities for one year and fined him \$10,000.00 for engaging in undisclosed business activities while he was employed at Raymond James as a sales representative.

#### IV

#### Conclusion

Overturf's violation of the Stipulation, his broker-dealer activities in violation of Corporations Code sections 25210 and 25216, and FINRA's one-year suspension and assessment of fines gives the Commissioner cause to bar Overturf from any position of employment, management or control of any broker-dealer or investment adviser.

WHEREFORE, based on the foregoing, the Commissioner finds it is in the public interest to bar Overturf from any position of employment, management or control of any broker-dealer or investment adviser under Corporations Code section 25213.

Dated: August 31, 2016

JAN LYNN OWEN  
Commissioner of Business Oversight

By: \_\_\_\_\_  
MARLOU de LUNA  
Senior Counsel  
Enforcement Division